REMARKS/ARGUMENTS

Claims 1-17 and 19-25 are pending in the application, all of which stand rejected. Claim 18 has been canceled.

Claim 1 has been amended to recite that the GUI is for constructing a "coordinated multi-location test of the network." Claims 3, 17 and 20 have been similarly amended. Support for these amendments is found, at least, in paragraph [0026] of applicant's specification.

1. Rejection of Claims 1-19 and 21-25 Under 35 USC 101

Claims 1-19 and 21-25 stand rejected under 35 USC 101 as being directed to nonstatutory subject matter. More specifically, the Examiner asserts that these claims are directed to "apparatus", which is not necessarily interpreted as a "computer". *See*, 12/12/2007 Office Action, p. 2, sec. 2.

In response, independent claims 1, 3, 17 and 19 have each been amended to recite "a computer", the computer being configured to display the GUI and "output the flows to at least one of the test locations." As amended, claims 1, 3, 17 and 19 are believed to be statutory.

Support for the amendments to claims 1, 3, 17 and 19 is found, at least, in paragraphs [0044] and [0045] of applicant's specification, and in FIG. 4.

2. Rejection of Claims 1-5, 18 and 21-25 Under 35 USC 103(a)

Claims 1-5, 18 and 21-25 stand rejected under 35 USC 103(a) as being unpatentable over Hare (US 6,292,909 B1) in view of Binder et al. (US 2003/0156549 A1; hereinafter "Binder").

With respect to claim 1, the Examiner admits that Hare does not disclose "a graphical end user interface (GUI) via which an end user constructs a graphical model

for a test of the network". However, the Examiner asserts that this is taught by Binder in FIG. 1 (8) and paragraph [0021]. *See*, 12/12/2007 Office Action, p. 9, sec. 4. The Examiner also references Binder's paragraph [0022]. Applicant respectfully disagrees.

Binder states:

> [0021] The Application Model Builder 8 is used to develop an integrated model of application user behavior, required application behavior, application user profiles, application user input domains, application interfaces, and load profiles, and so on. The models may be input through a graphical user interface (GUI). In this embodiment, the Application Model Builder 8 may provide the following modeling capabilities:
>
> [tabled not copied]
>
> [0022] The Test Repository Manager 9 may provide utility functions necessary to manage a large collection of test models, simulation runs, and test runs. For example, the Test Repository Manager 9 may provide test asset management to create, update, and analyze information about test runs and the system under test. Furthermore, Test Run Inputs 29 can be generated, saved, and rerun, if so desired and programmed. According to one embodiment, the Test Repository Manager 9 may generate Test Repository Reports 35, for example, comparing multiple test runs on same Test Run Inputs 29, displaying repository statistics, audit trails, test documentation, etc. The repository storage may be implemented in a relational database management system. Test Results may be exported to a software reliability modeling tool, such as CASRE, for reliability analysis.

None of the models referenced in Binder's paragraph [0021] is a "model of a. . .test". Rather, the models are models of a "*system* under test". As indicated by Binder, "The Test Engineer uses the Application Model Builder 8 and the Test Repository Manager 9 to create an executable ***model of a system under test and its environment***, and to perform analysis of models and test runs." *See*, Binder, par. [0019], emphasis added.

Although Binder's paragraph [0022] indicates that a Test Repository Manager 9 may provide utility functions necessary to manage "a large collection of test models, simulation runs, and test runs", it is noted that 1) the "test models" are presumably the models of the "system under test", and 2) the simulation runs and test runs are not constructed by a user via Binder's GUI. Rather, Binder indicates that, "The Simulator 10 may run offline (i.e., it runs to completion before a test run is started), and ultimately

generates a Test Run Input file 29." *See*, Binder, paragraph [0019]. Binder also indicates that, "The Simulator 10 uses discrete-event digital simulation logic to produce Test Run Input files 29." *See*, Binder, paragraph [0023].

Thus, in contrast to the apparatus of applicant's claim 1, wherein a computer displays a GUI for constructing "a graphical model of a. . .test of [a] network", Binder only discloses 1) a GUI for creating a model of a system under test, and 2) a simulator for automatically generating a Test Run Input file 29 based on a simulation using the model of the system under test. As such, applicant believes both Hare and Binder fail to disclose a computer that displays the GUI recited in claim 1, and claim 1 is believed to be allowable.

Claim 1 is also believed to be allowable because neither Hare nor Binder disclose a computer that displays a GUI for constructing "a graphical model of a *coordinated* multi-location test of [a] network."

Claims 2 and 21-25 are believed to be allowable, at least, because they depend from claim 1. Claims 22-25 are also believed to be allowable because their limitations are not taught nor suggested by Hare or Binder. Although the Examiner asserts that the features of claims 22-25 would have been obvious at the time of the invention, nothing of record indicates this. If the Examiner persists in rejecting these claims, the Examiner is asked to provide copies of references that support his rejections.

Claims 3-5 are believed to be allowable, at least, for reasons similar to why claim 1 is believed to be allowable.

Given the cancellation of claim 18, the rejection of claim 18 is moot.

3. Rejection of Claims 6-10 Under 35 USC 103(a)

Claims 6-10 stand rejected under 35 USC 103(a) as being unpatentable over Hare (US 6,292,909 B1) in view of Binder et al. (US 2003/0156549 A1; hereinafter "Binder") and Schwaller et al. (US 6,625,648; hereinafter "Schwaller").

Claims 6-10 are believed to be allowable, at least, because they depend from claim 3, and because the teachings of Schwaller do not cure the deficiencies in the

teachings of Hare and Binder (which deficiencies are noted in Section 2 of these Remarks/Arguments). That is, neither Hare, Binder or Schwaller disclose a computer that is configured to display the kind of GUI recited in applicant's claim 3.

4. Rejection of Claims 11-16 Under 35 USC 103(a)

Claims 11-16 stand rejected under 35 USC 103(a) as being unpatentable over Hare (US 6,292,909 B1) in view of Binder et al. (US 2003/0156549 A1; hereinafter "Binder") and Hartman et al. ("UML-Based Integration Testing"; hereinafter "Hartman").

Claims 11-16 are believed to be allowable, at least, because they depend from claim 3, and because the teachings of Hartman do not cure the deficiencies in the teachings of Hare and Binder (which deficiencies are noted in Section 2 of these Remarks/Arguments). That is, neither Hare, Binder or Hartman disclose a computer that is configured to display the kind of GUI recited in applicant's claim 3.

5. Rejection of Claims 17, 19 and 20 Under 35 USC 103(a)

Claims 17, 19 and 20 stand rejected under 35 USC 103(a) as being unpatentable over Hare (US 6,292,909 B1) in view of Binder et al. (US 2003/0156549 A1; hereinafter "Binder"), Schwaller et al. (US 6,625,648; hereinafter "Schwaller") and Hartman et al. ("UML-Based Integration Testing"; hereinafter "Hartman").

Claims 17, 19 and 20 are believed to be allowable, at least, for reasons similar to why claim 1 is believed to be allowable, and because the teachings of Schwaller and Hartman do not cure the deficiencies in the teachings of Hare and Binder (which deficiencies are noted in Section 2 of these Remarks/Arguments). That is, neither Hare, Binder, Schwaller or Hartman disclose a computer that is configured to display the kind of GUI recited in applicant's claim 3.

6. Conclusion

In light of the above Amendments and Remarks/Arguments, applicant respectfully requests the issuance of a Notice of Allowance.

Respectfully submitted,
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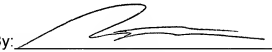
By: 

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